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**UNITED NATIONS  
General Assembly**

**Ad-Hoc Open-ended Informal Working Group  
to study issues relating to the conservation and  
sustainable use of marine biological diversity  
beyond areas of national jurisdiction**

**Statement on behalf of the European Union by**

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Please check against delivery

Co-Chairpersons, I have the honour to speak on behalf of the European Union.

The following countries align themselves with this statement: *The Candidate Country, Croatia\* and the former Yugoslav Republic of Macedonia\*, the Counties of the Stabilisation and Association Process and potential candidates Albania and Bosnia and Herzegovina, as well as Ukraine, the Republic of Armenia, Moldova and Georgia.*

At the outset, I would like to congratulate you on your appointment as Co-chair persons of the second meeting of the Ad-hoc open-ended WG which offers an excellent opportunity to build upon the efforts made in recent years to enhance cooperation and address major threats to conservation and sustainable use of marine biological diversity.

My intervention consists of three parts. At the beginning I would like to give a brief overview of our assessment of the situation in relation to marine biodiversity in Areas Beyond National Jurisdiction, then I will touch upon some of the proposals that we would like to put forward in order to address the key challenges that we are faced with, and finally I will conclude with some thoughts on what we believe this meeting can achieve.

### **Current problems**

Oceans and their resources have a key role in sustaining the life cycle of our planet. There is clear evidence of the multiple and growing threats to marine biodiversity as a result of human activities, with potential harm to ecosystem services and functioning. All oceans are affected including the unique and fragile ecosystems which occur outside national jurisdiction – those waters that constitute sixty-four percent of the world's oceans.

The convening of this meeting is a clear sign that the degradation of ocean biodiversity is a matter of serious concern for the international community. Protecting this biodiversity is a priority for the EU in its international policy as well as in the policy of its Member States designed to promote sustainable development and face up to our responsibility towards future generations.

### **Progress made so far**

The EU very much values the progress made since the first meeting of this working group back in 2006. Among those achievements, important work has been done towards the definition of common criteria for the identification of marine areas in need of protection within the CBD, with the involvement of the FAO, RFMOs, regional seas conventions and IMO. The UN Resolution of the General Assembly 61/105 has also introduced key principles and tools to protect high seas fragile ecosystems from damaging fishing techniques and those principles and tools are now being implemented by Flag States and RFMOs, with the guidance provided by the FAO. Another example is the much welcome development of port State measures to combat IUU fishing or substandard shipping activities.

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\* Croatia and the former Yugoslav Republic of Macedonia continue to be part of the Stabilisation and Association Process

The protection of our oceans is an immense challenge, however. A great deal more effort will be required in order to meet our international commitments, notably those agreed at the WSSD and the CBD on the establishment of networks of MPAs.

### **Remaining gaps**

The EU considers that the intrinsic difficulties to address the protection of marine biodiversity in ABNJ are compounded by important gaps in the international system. We will elaborate further on those gaps during the meeting but would like to mention some of them already at this stage.

The implementation of the UNCLOS general framework and principles for the management of the oceans relies mainly on sectoral or regional instruments. This fragmented approach does not allow for the development of a global strategy to protect marine biodiversity. This has notably prevented the international community from establishing multipurpose MPAs in ABNJ, given the lack of integrated mechanisms to identify, design, manage and enforce such tools. In addition, the geographical coverage of regional seas conventions with a mandate in ABNJ is still too limited. The EU calls on States to establish such conventions or agreements in areas where they do not yet exist, including in the context of the UNEP regional seas programme, as well as encourages States to join the existing ones.

The mainly sectoral focus of existing ocean bodies also results in a patchy application across sectors of basic principles guiding ocean governance and management. The ecosystem approach, the precautionary principle or prior impact assessment are being gradually incorporated as basic tools underpinning the policy of existing ocean bodies, but this evolution is taking place unevenly and is far from being completed. Whilst recognising the importance of these sectoral and regional bodies, the lack of an integrated approach is a hindrance to effectively protecting ocean biodiversity. A clear illustration of this problem is the absence of a mechanism by which to carry out a cumulative assessment of human impacts on marine biodiversity in ABNJ and thereby develop a comprehensive understanding of the state of, and threats to, marine biodiversity in a given area.

Additionally, some new activities and emerging challenges are not adequately covered under existing bodies. Carbon sequestration and storage, appropriate handling of marine genetic resources, ocean fertilization and ocean noise pollution are such examples. Efforts are being made in various fora to address those issues but a clear and global vision of their impact on ocean biodiversity and the way to address it is still missing.

Finally, another shortcoming lies in the poor implementation of the current legal framework. Addressing this implementation deficit is critical for the credibility of the international community in its efforts to manage the oceans. In addition, the failure by some Flag States to discharge their duties under UNCLOS and the persistence of activities such as IUU fishing and substandard shipping, remain major problems with a direct impact on marine biodiversity.

The EU wishes to move forward in order to address these problems. We believe that what is needed is enhanced cooperation and coordination within an integrated regime,

- covering unregulated activities;
- ensuring consistent application of modern ocean governance principles in sectoral management regimes;
- providing for the application of modern ocean management tools including MPAs and the prior assessment of environmental impacts of human activities on BBNJ; and
- providing for an overview of implementation of the existing regulatory framework.

### **Implementing Agreement**

Considering the above, it will come as no surprise that the EU remains of the view that ultimately an Implementation Agreement under UNCLOS would be the most effective option in order to provide such an integrated regime and address in a comprehensive manner the multiplicity of challenges facing the protection and sustainable use of marine biodiversity in ABNJ. We would like to underline that we have heard the reactions from our international partners to our proposal as regards an Implementation Agreement in 2006 and therefore the EU would stress that the proposal respects and builds upon the already existing legal framework. The EU is ready to further clarify its position on an UNCLOS implementing agreement to interested delegations.

### **Short term Measures**

However, the EU also recognizes that there are short-term options available through existing arrangements, which can help to achieve the above mentioned goals of integration, coordination and cooperation, working through the existing competent bodies, when available.

The EU has a number of proposals in this regard, including *inter alia* the use of the consolidated set of scientific criteria for identifying ecologically or biologically significant marine areas in need of protection, as developed and refined in the context of the CBD, with the involvement of, and building on, ongoing efforts of FAO, RFMO's, IMO and regional seas conventions. Furthermore, the EU proposes the establishment of multi-purpose pilot Marine Protected Areas in ABNJ as a key element of an ecosystem-based and precautionary approach to oceans management. We will put forward these and other proposals for short-term measures in more detail during the course of this meeting, including on EIA, governance principles and MSR.

Whilst we recognize that such shorter term actions will have their own distinctive limitations and shortcomings - which is why we continue to see the need for the more fundamental medium term approach of an Implementation Agreement – we think they are worth pursuing. They would serve as a constructive and cooperative agenda for the near term future, often breaking new ground, thereby allowing us to better understand what works and what does not. Learning through doing, we will be able to further develop effective medium term solutions. And most of all, given the urgency of the situation, they would enable us to start taking action now.

## **Marine Genetic Resources**

We understand that the question of access and benefit sharing of use of genetic resources in ABNJ deserves the full attention of the international community and we are ready to engage in a discussion on this issue.

As we will further explain under agenda item (d) of this meeting, the EU proposes to steer away from the unproductive debate on the legal status of Marine Genetic Resources in ABNJ. Instead, we would propose to focus the discussion on practical options for their management, including the fair and equitable sharing of benefits from such resources and we have some proposals in that regard. A reference point could be the existing and functional Multilateral System under the FAO International Treaty on Plant Genetic Resources. The EU believes that this proposal amounts to a constructive and proactive engagement in the debate on marine genetic resources without having to resort to clarification of their legal status.

We believe that ultimately any such management regime of MGRs, including the fair and equitable sharing of benefits, can only be part of a wider integrated regime for marine BBNJ that would also minimize impacts on the marine environment as a result of the exploitation of MGRs.

We will put forward these ideas in more detail and look forward to discussing these during the course of this meeting.

## **Framework for these proposals**

The EU would like to underline that, in our view, UNCLOS constitutes the overarching framework for the management of human activities in ABNJ and our proposals aim to make UNCLOS provisions on the preservation and protection of marine biodiversity more operational. It is important that future action be developed in full respect of the UNCLOS framework.

Co-chair-persons, let me conclude:

We would like to re-iterate the importance of this meeting. As mentioned at the beginning of my intervention, there is overwhelming evidence of actual destruction of marine biodiversity along with potential harm to ecosystem services and functioning. We must act now using existing instruments; and, we must also work toward developing a more adequate framework in the medium term to fully address the challenges we are facing;

Although the mandate of WG is not to agree on specific proposals as such, the EU would like to underline the importance of putting forward, in the co-chairs joint statement, a shared analysis of the problems we face, as well as pragmatic proposals for short and medium term measures that could then be taken forward in the General Assembly. We are ready to play a constructive role in that direction.

Recalling discussion from the first Ad-hoc WG meeting, and the need to move towards concrete measures, we look forward to explaining our different proposals in more detail

during the course of this second meeting, in particular as regards short term measures such as those relating to Environmental Impact Assessments and area based management tools and as regards access and benefit sharing in relation to MGRs.

During this week, we intend to focus our interventions both on what we believe can be achieved in the short term as a matter of urgency, building on strong sectoral and regional implementation, as well as on the merits of a parallel integrated approach in the medium term.

Finally, the EU would like to continue to review the issues of biodiversity in ABNJ with a view to have these substantive discussions consolidated into concrete GA resolutions targeting competent organisations.